

To

THE HONOURABLE THE AGENT TO THE

GOVERNOR-GENERAL, RAJPUTANA.

BANSWARA STATE : **Appellant**

Versus

THE RAO OF GARHI : **Respondent.**

Appeal against the order and decision of the Resident, Mewar, dated 23rd September 1912, so far as it goes against the Appellant, and awards the Respondent a half share of the net customs revenue of the Shergarh District with effect from the date when the customs Post was established at Salupat by the Banswara State.

The Appellant above-named maketh his submission in the manner following:—

1. That the question involved in the present case is of the highest importance to the Banswara State in as much as it directly affects one of the most essential ingredients of its rights of sovereignty. And the question naturally arises what would ultimately become of the State if such an important right as the levy of customs duties (universally admitted to belong to the *sovereign*) is allowed to dwindle away little by little, specially in a case like the present where the claimant (the Rao of Garhi) has *admittedly* failed to make out his case. It is also a matter for consideration whether the Jagirdars can be gradually permitted to replace the State and have direct relations with *foreign* States, which the levying of customs duties necessarily involves. The attention of the Honourable the Agent to the Governor-General is invited to the findings of the learned Resident which one and all are in favour of the Banswara State and rightly too as will be shown later. The only result that could have followed in such a case was a dismissal of the Rao of Garhi's claim. The appellant hardly considers it necessary before a learned Judge like the present officer holding the exalted office of the Agent to the Governor-General to refer to any law in this connection. But it would not be out of place to do so, and he begs to be excused for inviting his attention to the principles which are ordinarily followed in such cases.

- (a) A plaintiff must abide by his plaint, and he cannot, after the parties have come to trial, abandon his own story and adopting that of his opponent ask relief on that footing. I. L. R. 5 Cal. 602.
- (b) A plaintiff having come into Court upon one title which he asks to have declared and fails to prove, he cannot claim the declaration of another. 23 W. R. 437.
- (c) The determination in a cause must be founded upon a case either to be found in the pleadings, or involved in or consistent with the case thereby made. I. L. R. 14 Cal. 801.

2. This is a case which turns entirely upon facts. If there is any law, it is in favour of the Banswara State. In fact the Rao admits that ordinarily the right to collect customs dues should belong to the State as it is one of the rights of Sovereignty. But at the same time he sets up (**Prescription.**) The appellant, however, fails to see how *rights of sovereignty* could be acquired by *prescription*. Land and easements may be so acquired, but not rights of sovereignty, by a subject as against the State to which he owes allegiance. Further, how can the ordinary civil (technically called Municipal) law apply to sovereign rights? If any legal principles have any bearing in a case like this it is the time-honoured maxims quoted below from Broom's Legal Maxims (pp. 50 51 and p. 54. Indian Edition 1904) (1) "*Lapse of time does not bar the right of the Crown*" and (2) "*When the title of the King and the title of a subject concur, the King's title must be preferred.*" The following is the commentary on Maxim No. 1 in Broom's work "In pursuance of the principle already considered of the sovereign's incapability of doing wrong, the law also determines that in the Crown there can be no negligence or laches, and therefore it was formerly held that no delay in resorting to his remedy would bar the King's right, for the time and attention of the Sovereign must be supposed to be occupied by the cares of Government, *nor is there any reason that he should suffer by the negligence of his officers, or by their fraudulent collusion with the adverse party.*"

These remarks are very apposite in the present case, in view of the large influence admittedly possessed by the Raos of Garhi in the past in the Politics and Administration of the Banswara State. Rao Ratan Singh of Garhi, it may be observed, was manager of the Banswara State from 1844 to 1852, and Kamdar from 1874 to 1876. If, therefore, he took undue advantage of his position of trust, he or his successors can not acquire any rights adversely to the State or retain any benefits gained by an abuse of his trust.

3. The Appellant stands on the merits of his case and relies not merely on the general presumption in his favour to the effect that the customs belong to the Sovereign* but upon *positive evidence of account-books*, extending over a large number of years and existing in the Record office of the State, which books contain entries of recovery of customs dues by the State (see Appendix 1) and *also upon clear admissions of one of the ancestors* of the Respondent himself, one of the most influential Raos of Garhi, *and of Labana Panches belonging to Agarapura in Garhi and other Jagir villages*. This evidence will be adverted to later on. But at this point it is necessary to explain that the Banswara State was given a very short time to make its comments on the appeal of the Rao of Garhi to the Resident, as well as to refer to such evidence as it could lay hands on within that time. This would clearly appear from the last para of the letter from the Kamdar of the State to the Political Agent (see Appendix 2). It is therefore hoped that in the interests of justice, and in view of the large interests involved, the Honourable the Agent to the Governor-General will be pleased to admit and take into consideration the account-books and other evidence which could not be placed before the Resident through no fault of the State and which evidence taken as a whole makes the case for the State unshakeable.

4. The preservation of all ancient rights and privileges of the Native States in India has been the practice of our Benign British Government, whose high authorities have repeatedly been emphasising the same policy. It is therefore hoped that in a case like the present where the *State* only asks for its just rights, the Hon'ble the Agent to the Governor-General will be pleased to afford the *State* protection and not allow its rights to be curtailed, simply because the Respondent has chosen to make a claim which he has failed to substantiate, backed as he is by a combination of all the Jagirdars of the State, who have a common interest in the claim of the Rao succeeding and are therefore prepared to make any assertions against the State if it would only directly or indirectly serve their interests also. The case of the Jagirdars of Khandu and Arthuna can furnish no precedent in as much as the concession in their case was conditional and subject to reconsideration at the close of the period during which the *State* remained under administration (*vide* copy of the Assistant Resident's order dated 13th July 1905 attached, Appendix 3) and it may be assumed that the *State* has the intention to forward an objection thereto, whenever the contingency of its Ruler receiving full powers again shall arise.

5. The chief issue to be examined and decided in the case is aptly put by the learned Resident thus; "Has the appellant (the Rao of Garhi) established his contention that the Garhi Thikana, and not the Banswara State has the right to levy customs dues in Shergarh Ilaka?"

- (1) Now what evidence has the Rao produced in support of his claim. Account-books there are none (at any rate none have been produced so far) and in face of the clear and overwhelming evidence produced by the State, it is difficult to believe that the Rao could have in his possession any such account-books as he alleges.
- (2) A close examination of the alleged evidence for the Rao would disclose the fact that he has tried to conceal the weakness of his cause under a load of ineffective arguments. When he made his claim he alleged enjoyment for over a century. But the supposed evidence which he relies on relates according to his own showing only to a period of forty years. Thus from over a century he has come down to a period of forty years, and that too is a mere assertion without proof.
- (3) As against the assertion of the Rao of Garhi that, when in 1870 the officials of the Banswara State tried to claim the right to levy customs in the villages of Garhi no claim was raised as regards Shergarh, the learned Resident rightly finds that this statement has not been supported, as it might reasonably be expected that it should be, by extracts from the correspondence which must have taken place in respect of the claim raised by the Banswara State (para 8 of Judgment).

As against the said assertion of the Rao the State relies on a clear admission of the year 1871 of the Rao's ancestors, which shows that the State was in enjoyment of the customs dues even in 1870.

- (a) The said admission is contained in a letter* dated Bhadwa Badi 13th Sambat 1928 (A. D. 1871) from Rao Ratan Singh of Garhi to Colonel J. P. Nixon, Political Agent, Mewar. In that letter, the said Rao clearly admits that the Banswara Durbar have been levying customs duties in his Patta (estate) from time immemorial and no exception is taken as regards Shergarh. The Rao, however complains that the Durbar are levying from Assamies living on his estate customs duties twice over (that is, on imports from foreign territory as well as on imports from one place to another within the district.
- (b) The same thing is borne out by a petition,* dated Maha Sud 5th Sambat 1928 (1871 A. D.) from Labana Panches of village Agarpura (so called after Thakur Agar Singh of Shergarh), Taluqa Udaigarh (the name of the estate of the Rao of Garhi, so called after Thakur Udai Singh) and other villages to Col. J. P. Nixon, Political Agent, Mewar, complaining of the raising of duties in their villages by the Banswara Darbar. The Assistant Political Agent's order No. 200 dated the 21st February, 1872 on the above complaint is to the effect that he does agree that the duties are high, but regrets that he is unable to interfere as it is a matter within the authority of the Banaswara Durbar.
- (c) In this connection attention may be drawn to two Parwanas of Sambat 1944 and a petition of the Rao of Garhi of the same year (*Appendices 6 and 7*) which are very important. By Parwana No. 78 dated Bhadwa Bud 9th Sambat 1944, Rao Gambir Singh of Garhi was ordered to direct the Mahajans of Shergarh Ilaka to pay customs duty to the State on goods imported from Gujrat at the customs houses appointed by the State and the Rao was warned that if he failed to carry out orders, the Durbar would be obliged to post a customs officer, (Nakedar) at Shergarh itself.

In reply to this the Rao of Garhi submitted a petition (*Appendix 7*) in which he submitted that the names of the smugglers should have been communicated to him and added that although the merchants of Shergarh said that they did not smuggle any goods yet they had been warned that when they brought goods from foreign territory to Shergarh and sold them there, they should invariably pay the customs duty leviable thereon and that if any smuggling was proved, they would be punished.

The Rao of Garhi, however, had also mentioned in his petition that most of the merchants who had their shops at Shergarh were from Kalinjara and other places outside his Jagir. With reference to this, the Jagirdar was told in a fresh *Parwana No. 2590 dated Katik Sud 11th Sambat 1944 that the State order applied not merely to Mahajans of Kalinjara, &c., but to all Mahajans who should export or import articles to or from foreign territory.

These documents furnish valuable evidence of the enjoyment by the State of the customs dues in Shergarh District also, for if the Rao of Garhi was himself levying or considered himself entitled to levy customs duty from merchants at Shergarh, nothing would have been more natural than for him to have said so.

(d) These admissions taken with the direct evidence of recovery of the customs dues by Banswara Durbar as furnished by a large number of account-books (*vide* Appendix 1) and the general presumption naturally existing in favour of the Durbar make the case for Banswara un rebuttable.

(iv) With reference to a complaint of the Rao of Garhi about the levy of customs duty in his Patta (Estate) by the Banswara Durbar, the learned Resident finds as follows :—

“But the fact that the Banswara State denies that the Rao of Garhi was entitled to take such duties and that by the Rao’s own showing the Durbar had been collecting duty in his Thikana is evidence *rather against, than for*, the claim that the Jagirdar of Garhi has enjoyed uninterrupted and undisturbed the right to collect customs duties in the Shergarh portion of his Thikana,” (Para 9 of judgment.)

(v) With reference to the Rao’s contention that no attempt was made by Kamdars of Banswara in 1869, 1894, and 1902 to claim the right to take the Sayar of the Shergarh Ilaka, the Resident’s finding is as follows:—

“The argument cannot be accepted in the face of the entries in the Bahis of the Banswara State which show as reported by the Assistant Resident, that duty on exports from the Shergarh Ilaka was levied by the State in 1882 and 1885, and that in 1893 a fine was imposed by the State in respect of the sale of opium in Shergarh on which no duty had been paid to the Banswara State. There is nothing on the record to show that the Rao of Garhi raised any protest against the collection of the duties and the fine alluded to.” (para 10 of the judgment).

The position of Banswara, it may be remarked, is further strengthened by the additional account-books traced since the Resident’s order.

With reference to the *fine* alluded to, a perusal of the copy of the original account (Appendix 8) is invited to show that the amount which the State recovered was *not only for fine* but *for fine in addition to the duty* which should have been paid.

(vi) The contention of the Rao of Garhi that the State did not credit the customs-duties recovered from Shergarh during the minority of Rao Sangram Singh, when the Thikana was under the management of the State, to itself, but credited them to the Thikana, is also incorrect. The entries in the State Bahis referred to below show that *even during Rao Sangram Singh’s minority* the State credited to itself the customs-dues collected from the Shergarh District.

- (a) Bahi of Sambat 1947, p. 35.
- (b) Bahi of Sambat 1948, pp. 197, 213, 214 and 215.
- (c) Bahi of Sambat 1949 p. 217. (For details please see Appendix 1.)

(vii) On the contention of the Rao that the letter from the Dungarpur Durbar dated the 14th February 1872, establishes the right of the Garhi Jagirdar to collect customs in the Shergarh Ilaka, the learned Resident finds that "there is nothing in the wording of the letter to prove that it refers to the Shergarh portion of the Thikana."

It may be pointed out here that the Rao of Garhi still holds Patta Chhitri from Dungarpur, and it is only to that Patta that the Maharawal of Dungarpur's letter could apply. The very tone of the letter leaves no doubt on the point. The letter is an order of the Dungarpur Durbar to the Garhi Rao to make special arrangements for Watch and Ward on the occasion of pilgrims passing through his portion on their way to the sacred fair held at Sabla in Dungarpur State. And it is clearly stated in the letter that a failure to make the necessary arrangements would entail on the Rao personal responsibility for any loss caused by his neglect of the Dungarpur Durbar's order. Such a letter could only be addressed to a servant or Jagirdar of the Dungarpur State.

(viii) With reference to Maharawal Lachman Singh's letter of *khātrī*, addressed to Rao Ratan Singh in Sambat 1920, the Resident rightly holds that the said letter does not contain any special allusion to the right to collect customs in the Shergarh District. (Para 12 of the judgment). In the absence of an express grant such rights of sovereignty as the right to levy customs dues, could not be implied.

(ix) A very strong argument in favour of the right of Banswara to levy customs dues in the Shergarh District and of its enjoyment of the same in the past is furnished by the fact that the State has always maintained customs outposts (*viz.* Tanda, 2 Arthuna, 3 Kalinjara, 4 Bhukia, and 5 Anj in Garhi) for collection of customs duty from the Shergarh District, but can the Rao of Garhi point to a single outpost maintained by him? How is it possible to collect customs dues without any outposts for the purpose?

6. The Rao is blowing hot and cold at the same time. He admits that he does not claim to be independent of Banswara. But at the same time he leaves no stone unturned to show (though unsuccessfully) that Shergarh was acquired by his ancestors by conquest. His arguments on this point are as flimsy as those on the others.

(i) His first ground is that there is a tradition to that effect.

But this is a mere assertion without proof. Where is the guarantee that his so-called tradition which comes from an interested source is more reliable than old historical records and documents, relied on by the learned Resident in disproof of the Rao's contention, and which were prepared at a time when there was no dispute on the point in question.

- (ii) Another ground of the Rao is that for some time the Rao of Garhi had direct relations with the Political Officer at Kherwara. But a sufficient reply to this is furnished by an order of Col. Walter dated 22nd February 1887, in which he points out with reference to a letter of Major Mackenzie dated 5th November 1868, that even that Officer recognized the irregularity of allowing direct correspondence with Kherwara which had been permitted for some time because of the special circumstances then existing when border troubles had to be settled without loss of time and a reference to Banswara would have involved delay owing to the misrule believed to exist there.

(2) Col. Walter makes a careful examination of the claim of the Rao of Garhi with regard to Shergarh, and also of the opinion expressed by Major Mackenzie, and comes to the conclusion that the claim of the Rao of Garhi to be independent of Banswara cannot stand.

(3) Another letter which is very material in this connection is letter No. 857 dated 25-8-1877 from the Assistant Resident to the Rao of Garhi, refusing to receive from him a communication not sent through the Banswara Durbar, on the ground that it was an innovation which could not be permitted. The Assistant Resident, it further appears, gave the Rao every opportunity to establish his contention. But the Rao failed to do so, and the Assistant Resident upheld his order which he said was borne out by old records in his office.

(4) The Respondent places great reliance on a letter of Major Mackenzie, dated 4th December 1868, referred to in Col. Walter's note. But there is no ground to suppose that Major Mackenzie had special means of knowledge, worthy of greater credit than the authorities referred to in Col. Walter's note, which are *much older* than Major Mackenzie.

(5) That Chouth is paid to Sonth and Jhalod does not establish the independence of Shergarh. Chouth was a cess formerly paid to Bhils to secure freedom from their attacks, and such a cess would, having regard to the troubled times, continue to be paid even after the conquest of Shergarh by Banswara.

The learned Resident has, therefore, rightly found on the authority of old records that:—

- (i) The Shergarh Ilaka was conquered by the Banswara troops and incorporated in the Banswara State.

- (2) That the District was subsequently granted in Jagir by the Banswara Durbar to Thakur Agar Singh, the ancestor of the Rao of Garhi.

Note.—Thakur Agar Singh was father of Udai Singh; hence Agar Singh's name is mentioned promiscuously with Udai Singh's.

- (3) Thirdly, the Resident finds that on two occasions the Jagir has been resumed by the Banswara Durbar.

*Appendix 10.

Apart from the authorities referred to by the learned Resident, strong proof of confiscation by Banswara is furnished by a letter* of the Sambat year 1934 (A. D. 1877) recorded as No. 92 in the State Record Room Register of Banswara. It shows that one Gauri Shanker was appointed Nazim of Shergarh and deputed by the Durbar to quell a rebellion of Bhils in the Shergarh District, and the Thakur was directed to work in subordination to the Nazim. This action was taken by the Durbar on being moved by the Political Agent on receipt of a complaint from the Bombay Governor.

- (4) Lastly, the Resident finds on the point under discussion that there is no reason to consider the possession of the Raos of Garhi over the Chilkari or Shergarh portion of the Garhi Jagir as differing in any way from the nature of their possession over the Garhi portion of that Jagir, except in so far as the former portion would seem to have been originally granted as a special reward for military services, in consideration of which no tribute from the Jagirdar of Garhi is levied by the Banswara State in respect of the Shergarh District. (Para 6 of the judgment.)

7. The learned Resident is not right in presuming (*vide* Para 13 of the judgment) that it is admitted that the Rao of Garhi has, in the past, made collections of the nature of customs duty in the Shergarh District. No such admission was ever made on behalf of the State, and the learned Resident should not have assumed it in the way he has done. And although the Rao has produced no evidence to prove any collections of the nature of customs duty, the learned Resident followed up the assumption so made by ultimately giving it as a finding in para 16, clause (b) of his judgment.

By the expression, "collections of the nature of customs duty," the learned Resident apparently means *khunt and bisra* cesses. But these cesses are entirely distinct from customs duty and are generally collected by a headman of a village or chieftain for watch and ward duties, and whenever levied have to be paid *in addition to the customs duty payable to the State. The levy of customs on the other hand, is entirely in the hands of the Sovereign and is regulated by different principles. For the collection of customs duty outposts must be established, for the collection of the cesses referred to, no outposts are necessary, in as much as they are generally collections made from village to village.

* As the practice even now prevails in Mewar and Parbatgarh.

8. The learned Resident has, as submitted above, found against the Rao on the main issue referred to above and held that the Rao has failed to establish his claim both on the ground of conquest and that of prescription (*vide* para 16, clause (a) and (c) of the judgment).

In such a case, as stated by the learned Resident himself in para 3 of the judgment, it is obvious that the relief asked for in (b) (namely, declaration of right) be not accorded, the reliefs asked for in (a) and (c) must also be denied. But the learned Resident has allowed the Rao a half share in the net customs revenue of Shergarh on the ground that the Jagirdar of Garhi has in the past been *permitted* by the Durbar to make certain collections of the *nature of customs duties* in the Shergarh District and on plea of the special services of the appellant's ancestor which led to that District being bestowed on him in Jagir free of tribute.

9. How far the above argument can stand is obvious. As shown above, it is neither admitted, nor proved, that the Durbar permitted the Jagirdar to make in the past collections of the nature of customs dues. In para 9 of the judgment the learned Resident himself mentions the fact that in 1871-73 the Durbar denied the right of the Jagirdar to levy customs duty in the Shergarh Ilaka. No such collections have ever been made by the Rao with the knowledge of the Durbar. If any collections were made stealthily by reason of the large influence which the Jagirdars of Garhi possessed the Durbar have never consented to it. And even now the Durbar strenuously deny the Rao's right to such collections and assert that if there were really any account books in the possession of the Respondent showing recovery of customs dues by the Garhi Rao in the past, at least their copies would have been produced.

10. The whole thing, therefore, comes to this. The learned Resident finds (1) that "the Shergarh Ilaka is an integral portion of the Banswara State and a portion of the Jagir granted by the Banswara Durbar to the appellant's (Garhi Rao's) ancestors." Para. (16) Clause (a) of Judgment.)

(2) That the claim of the Rao "that the right to collect customs duty in the Shergarh Ilaka has been obtained by the appellant (the Rao) by prescription and the uninterrupted and undisturbed enjoyment of the practice for over a century cannot be admitted" (para 16 clause (c) of Judgment).

(3) That "no right to levy customs duty in the Shergarh district has been bestowed by specific grant on the Jagirdar of Garhi" (para 16 clause (d) of Judgment.)

But in spite of the non-existence of any rights in the Rao, the State must give him a half share in the customs revenue. That is to say, because the Durbar are said to have permitted in the past collections *in the nature of customs dues*, it is held that the Rao must in future share *the customs dues themselves*. This argument is scarcely *consequential* and it would seem that the learned Resident was inclined to concede a right on the mere allegation of the permissive exercise of it. For instance, if B. has allowed his friend A. to live in his house, does it therefore follow that A. has acquired a right to share the house with B. even against B's will.

11. If a former Rao of Garhi rendered special military services to the Durbar the latter rewarded him with the grant of a Jagir tribute-free.

Presumably, the reward bestowed at the time was regarded as sufficient by the parties concerned. What circumstances have since come into existence to make the reward insufficient at this distance of time?

The granting of rewards is really a prerogative of the Durbar. And the Rao cannot compel the Durbar to exercise that prerogative against the Durbar's will in the Rao's favour. Indeed, should the Durbar reward him for having brought a false claim, which, if it succeeded, would strike at the root of one of the essential ingredients of the Durbar's sovereignty and encourage others to put forward similar claims.

12. When it is admitted that the Shergarh Ilaka is an integral portion of the Banswara State (para 16 clause (a) of the judgment) and when it has been found that "there is no reason to consider the possession of the Raos of Garhi over the *Chilkari* or Shergarh portion of the *jagir* as differing in any way from the nature of their possession over the Garhi portion of that *jagir*" (para 6 of judgment), it is difficult to see how the learned Resident's order can stand.

As a matter of fact, it would be *ultra vires* to grant any such rights while the State is under administration. There should be no curtailment of the rights of the Durbar and nothing should be done that would fetter the discretion of the Durbar for all time to come.

13 It is, therefore, prayed that the Honourable the Agent to the Governor-General will be pleased to give the case his full consideration, and to set aside the order of the Resident in Mewar, awarding in favour of the Rao of Garhi a half share of the net customs revenue of the SHERGARH DISTRICT with the other reliefs detailed in the Resident's Judgment.

I have the honour to remain,

Sir,

Your most obedient servant,

Sri Ram Singh

Kamdar, Darbar, Banswara State.

APPENDIX 1.

List of various entries of duties paid by Shergarh people upon articles exported from that district, from Sambat 1897 to 1960.

Note.—These may be read with annexure 4 entries.

No. of register state record office.	Nature of Bahira (file)	Reference page of Bahira.	REMARKS.
1	2	3	4
442	Pathog (Naka) <i>Tanda</i> file of Sambat 1897.	28	Nayak Nagji Fatta, Dhira, Pana, Rama and others exported grain from Shergarh to foreign territory so duty of Rs. 10/- charged by the State.
509	Pathog (Naka) <i>Arthuna</i> file of Sambat 1920.	Pos sud 8	(i) Charan Kheta exported grain (13 camel loads of grain from Shergarh to foreign territory, so duty of Rs. 9/- charged by the State. (2) Nayak Kana of Peeth exported grain from Shergarh on 12 pack bullocks, so duty of Rs. 1/12/- charged by the State.
564	Pathog (Naka) <i>Arthuna</i> file of Sambat 1926.	41	(i) Nayak Kanji of Shergarh exported grain from Shergarh on 150 pack bullocks, so duty of Rs. 18/12/- charged by the State.
		45	(2) Nayak Hobli of Peeth exported grain from Shergarh on 150 pack bullocks, so duty of Rs. 19/- charged by the State.
		50	(3) Bhat Neta Ratna Marwari exported grain from Shergarh on 20 pack bullocks, so duty on Rs. 2/13/- charged by the State.
		117	(4) Bohra Farzul Karim and Farzul Gulji of Parrapur exported grain from Shergarh, so duty of Rs. 1/6/6 charged by the State.
		118	(5) Bohra Kadar, Karim of Partapur exported grain from Shergarh so duty of -/11/- charged by the State.
580	Pathog (Naka) <i>Arthuna</i> file of Sambat 1927.	59	Nayak Partab of Peeth exported grain from Shergarh on 101 pack bullocks, so duty of Rs. 12/8/- charged by the State.
		59	Nayak Chamra Hira exported grain from Shergarh on 70 pack bullocks, so duty of Rs. 11/- charged by the State.

No. of register state record office.	Nature of Bahira (file)	Reference page of Bahira.	REMARKS.
1	2	3	4
20	Pathog (Naka) <i>Kalinjra</i> file of Sambat 1929.	60	1 Nayak Rakba Obji exported grain from Shergarh on 11 pack bullocks, so duty of Rs. 7/12/- charged by the State.
22		15	1 Nayak Sarto Manno of Tanda exported grain weighing $1\frac{1}{2}$ Mani (9 Maunds) on Pack bullocks, so duty of Rs. 2/8/- charged by the State.
58	Pathog (Naka) <i>Bhukia</i> file of Sambat 1932.	93	1 Nayak Umji of Dhodi exported grain from Shergarh on 25 pack bullocks, so duty of Rs. 3/15/- charged by the State.
143		93	Nayak Karu of Peeth exported grain from Shergarh on 39 pack bullocks and the duty of Rs. 6/- was charged by the State.
197	Pathog (Naka) <i>Ajna</i> file of Sambat 1938.	86	Nayak Pema and Birma of Peeth exported grain from Shergarh on 22 pack bullocks, so duty of Rs. 3/8/- charged by the State.
	Pathog (Naka) <i>Bhukia</i> file of Sambat 1942.	15	Nayak Saba, Nayak Ser Singh of Peeth exported grain weighing 20 Manis (120 Maunds) from village Dekar, Tamtia, Tawarna of <i>Shergarh Zillah</i> so duty of Rs. 25/- charged by the State.
		16	Pargi Hamira, Dhura, Kana, Vaga, Mitha and Vanara Pala of Vador exported Opium from Shergarh to Jhalod, so duty of Rs. 8/8/- charged by the State.
		6,7,8	Nayak Kadvo Rupo of Todi of Ajna exported Til (Sesamum seed weighing 9 Manis (54 Maunds) from village Ved Pipri so duty of Rs. 22/8/- charged by the State.
			Nayak Chatur Bhuj Dolat Ram of village Chikhli of <i>Shergarh Zillah</i> hired pack bullocks of Moka of village Chikhli and exported Makki (18 Manis) from village Chikhli to Gujrat villages Valiprr and Amba, so the duty of Rs. 27 charged by the State.
			(3) Nayak Mano Magro of village Chikhli exported through Pirthi of Bodi-gama grain from village Vardia, <i>Shergarh</i> and the duty of Rs. 3/- charged by the State.
			(4) Nayak Nano Pema of Punawada Dungarpur State exported through

No of register state re. ord office.	Nature of Bahira (file).	Reference page of Bahira.	REMARKS.
1	2	3	4
			<p>Davda Hakar Chand, grain from vil- lage Dokar, so the duty of Rs. 15/- charged by the State.</p> <p>(5) Nayak Lukho of Upaiya exported Makki (Maize) weighing 15 Manis (90 Maunds) from villages Vardia, Amba, Dokar and Heran of Zillah Shergarh to Guzrat, so the duty of Rs. 22/- charged by the State.</p> <p>(6) Nayak Hema Lachha of village Puna- wara exported Makki weighing 11 Mains (66 Maunds) from village Heran Vadan of <i>Zillah Shergarh</i>, so duty of Rs. 18/4- charged by the State.</p> <p>(7) Nayak Balji, Harnath, Dharma and Rukhbo of Punawara exported Makki weighing 18 manis (108 Maunds) from villages Chrajan, Heran, Tamtia of <i>Shergarh Zillah</i>, so duty of Rs. 31/8/- charged by the State.</p> <p>2 (8) Nayak Tar Singh of village Dalji-ka- garha exported grain from village Dokar of Zillah Shergarh and vil- lage Tanda of Bhukia Jagir so duty of Rs. 2/10/- charged by the State.</p> <p>2 (9) Nayak Jasso and Shivo of Arthuna exported grain from village Piparia of <i>Zillah Shergarh</i>, so duty of Rs. 2/8/- charged by the State.</p> <p>2 (10) Nayak Mangro of village Punawaras exported Makki weighing 14 Manih (84 Maunds) from village Shergars and Bhukia, so duty of Rs. 24/8/- charged by the State.</p> <p>2 (11) Nayak Lakta Umji of Todi of Ajna exported Makki weighing 6 Manis (36 Maunds) from village Dokar Shergarh, so duty of Rs. 10/8/- charged by the State.</p> <p>10 Nayak Nagoji Kano and Jey Chand of Peeth exported Makki weighing 13 Manis (78 Mds.)</p>

No. of register state record office.	Nature of Bahira (file).	Reference page of Bahira.	REMARKS.
1	2	3	4
243	Pathog (Naka) <i>Bhukia</i> file of Sambat 1945.	<p>11</p> <p>13</p> <p>15</p> <p>23</p> <p>23</p> <p>24</p> <p>26</p>	<p>from village Dokar, <i>Shergarh</i>, so duty of Rs. 22/12/- charged by the State.</p> <p>Nayak Obji Gubra of Peeth exported Makki weighing 32 Manis (192 Maunds, from village Dokar, Chhajan, Madkola of <i>Shergarh</i>, so duty of Rs. 40/- charged by the State.</p> <p>Nayak Jumo and Bhana exported grain Makki weighing 34 Manis (204 Maunds) from village Dokar, <i>Shergarh</i>, so duty of Rs. 42/8/- charged by the State.</p> <p>Nayak Gabra exported Til weighing 12 Manis (72 Maunds) from village Dokar, <i>Shergarh</i>, so duty of Rs. 38/- charged by the State.</p> <p>15. Nayak Dule Singh of Peeth exported gram weighing 14 Manis (86 Maunds) from village Dokar, <i>Shergarh</i>, so the duty of Rs. 17/8/- charged by the State.</p> <p>Nayak Amtho of Peeth exported Til weighing 14 Manis (84 Maunds) from village Dokar, <i>Shergarh</i> and <i>Sera</i>, so the duty of Rs. 42/- charged by the State.</p> <p>2. Nayak Jogla Hanla of Todi of Arthuna exported Til weighing 5 Manis (30 Maunds) from village Mundri, Heran, Pipri of <i>Shergarh</i>, so the duty of Re. 1/- charged by the State.</p> <p>2. Nayak Huklo of Todi of Ajna exported wheat weighing 2½ Manis (13½ Maunds) from village Dokar, <i>Shergarh</i>, so the duty of Rs. 2/12/- charged by the State.</p> <p>Nayak Balua of Peeth exported Til weighing 5 Manis (30 Maunds) from village Uba-pan and Madkola, <i>Shergarh</i>, so the duty of Rs. 15/- charged by the State.</p> <p>Nayak Lachhman of Peeth exported Til weighing 20 Manis (120 Maunds) from village <i>Bhukia</i> and <i>Dakar</i>, <i>Shergarh</i>, so the duty of Rs. 59/- charged by the State.</p> <p>Nayak Bhero of Peeth exported Makki weighing 20 Manis (120 Maunds) from village Dokar <i>Shergarh</i>, so the duty of Rs. 24/- charged by the State.</p>

No. of register state record office.	Nature of Bahira (file).	Reference page of Bahira.	REMARKS.
1	2	3	4
		26	Nayak Panio of Peeth exported Makki weighing 19 Manis (114 Maunds) from village Dokar, <i>Shergarh</i> , so the duty of Rs. 22/12/- charged by the State.
		28	Nayak Lekho of Umbapan exported Makki weighing 14 Manis (84 Maunds) from village Vanda, so the duty of Rs. 17/8/- charged by the State,
		28	Bhat Dhulji Hukmo exported Makki weighing 26 Manis (156 Maunds) from village Dokar, so the duty of Rs. 31/8/- charged by the State.
		30	Nayak Nar Singh of Peeth exported Makki weighing 12 Manis (72 Maunds) from village Seran, so the duty of Rs. 14/8/- charged by the State.
262	Pathog (Naka) <i>Kalimra</i> file of Sambat 1947.	35	Nayak Chanada Kana Umai exported Makki 15 Pothis from <i>Shergarh</i> to foreign territory, so duty of Rs. 11/4/- charged by the State.
274	Pathog (Naka) <i>Arthuna</i> file of Sambat 1948.	197	Bhat Agora Beni Chand of <i>Shergarh</i> exported Til 1½ Mani from <i>Shergarh</i> and paid Rs. 4/8/- as customs duty.
"	Pathog (Naka) <i>Bhukia</i> file of Sambat 1948.	213	Bhat Dhulji of Mewar exported Makki 7 Mani from the village Dokar and paid Rs. 8/12/- as customs duty.
		214	Nayak Bheeka Peetha exported Makki 8 Mani from Dokar and paid Rs. 22/8/- as customs duty.
		214	Nayak Aniyao of Peeth exported Makki 7 Manis from Dokar, <i>Shergarh</i> and paid Rs. 8/12/- as customs duty.
		215	Nayak Tarka Peetha exported Makki 4 Manis from the village Tamtia, <i>Shergarh</i> and paid Rs. 5/ as customs duty.
		220	Bhat Punaji of Marwar exported Makki 60 Manis from Dokar, <i>Shergarh</i> and paid Rs. 68/12/- as customs duty.
291	Pathog (Naka) <i>Bhukia</i> file of Sambat 1949.	217	Nayak Lal Singh of Dad in <i>Shergarh</i>

No. of register state record office.	Nature of Bahira (file).	Reference page of Bahira.	REMARKS.
1	2	3	4
313	Pathog (Naka) <i>Bhukia</i> file of Sambat 1950.	15 X	1 exported wheat 33 Manis from Wadlia Mordi and paid Rs. 37/8/- as customs duty. Ganehi Musa Ibhran of Godhra exported Til and Sarso weighing 2 Manis (152 Mds.) from village Vedan, so the duty of Rs. 33/- charged by the State.
		31	Bohra Anwarali Sultanali of Dungarpur exported Til weighing 14 Manis (84 Maunds) from villages Dokar and Vedan, <i>Shergarh</i> , so the duty of Rs. 42/- charged by the State.
		32	2 Nayak Chunio of village Ajna of exported through Thavar Chand Tarati Til weighing 2 Manis (12 Maunds) from village Dokar <i>Shergarh</i> , so the duty of Rs. 6/- charged by the State.
		33	Gowar Ratna and Teja of Bakor-Pandwara exported Makki weighing 2½ Manis (15 Mds.) from village Piprai, <i>Shergarh</i> , so the duty of Rs. 3/- charged by the State.
		35	Nayak Ram Chand Dova Chaud of Peeth exported wheat 5 Manis (30 Maunds) from village Dokar, <i>Shergarh to Gujrat</i> , so the duty of Rs. 6/4/- charged by the State.
656	Pathog (Naka) <i>Anjna</i> file of Sambat 1960.	36	Nayak Ando of Bakorpura exported Makki 7 Manis from village Dokar, <i>Shergarh</i> , so the duty of Rs. 8/12/- charged by the State.
		13	Labana Dharma Kadva of <i>Shergarh</i> and Arthuna ki Tandi exported the following articles:— X Wheat weighing 2½ Manis, Til.....3" from village Anjna to Jhalod, so the duty of Rs. 14/9/- charged by the State.
664	Pathog (Naka) <i>Bhukia</i> file of Sambat 1960.	7	Bohra Kasam Farzul of Galiakot exported Til weighing 1 Mani (6 Maunds) from village Vedan, so the duty of Rs. 3/8/- charged by the State.
		7	Bhanchand Udechand of village Fatchpura exported grain on 2 pack bullocks from village Vedan, so the duty of Rs. 4/8/- charged by the State.
		8	Gowaria Vanjara Chāndā of Sagwara Zillah

No. of register state record office.	Nature of Bahira (file).	Reference page of Bahira.	REMARKS.
1	2	3	4
			Punch Mahal (British district) exported Makki weighing 7 Manis (42 Maunds) from village Vedan so the duty of Rs. 7/12/- charged by the State.
		8	Bohra Ali Sultan of Bhundia exported Til 1 Mani (6 Maunds) from village Vedan, so the duty of Rs. 3/8/- charged by the State.
		10	Bohra Sultan Amarji of Bhundia exported Rice weighing 1 Mani (6 Maunds) from village Seran, so the duty of Rs. 1/10/- charged by the State.
		10	Bhansa Ude Chand Lukhmi Chand of Fatchpura exported grain from village Vedan, so the duty of Rs. 12/- charged by the State.
		10	Bohra Mohamed Ali Ibrahim of Galiakot exported Makki 3 Manis (18 Maunds) from village Seran, so the duty of Rs. 3/6/- charged by the State.
		11	Davda Sakar Chand Pana Lal of Galiakot exported Rice weighing 8 Manis (48 Maunds) from village Seran, so the duty of Rs. 1/1/6 was charged by the State.
		11	Gavaria Vanjara Das Karan exported Makki weighing 12 Manis (72 Maunds) from village Bokar, <i>Shergarh</i> and Bhukia, so the duty of Rs. 15/- charged by the State.
		12	Laskari Bhura and Jivraj of Jhalod exported wheat 4 Manis (24 Maunds) from villages Tamtia and Madkola, so the duty of Rs. 21/- charged by the State.
		13	Laskari Dhanraj of Jhalod exported gram 6 Manis (36 Maunds) from village Seran, Bhukia, so the duty of Rs. 27/10/- charged by the State.
		13	Laskari Dhanraj of Jhalod exported wheat and gram 11 Manis from village Heran, so the duty of Rs. 20/12/- charged by the State.
		14	Bohra Abdul Husain of Galiakot exported gram 3 Manis (18 Maunds) from village Seran so the duty of Rs. 3/7/- charged by the State.

No. of register state record office.	Nature of Bahira (file).	Reference page of Bahira.	REMARKS.
1	2	3	4
664	Pathog (Naka) Bhukia file of Sambat 1960.	<p>14</p> <p>14</p> <p>14</p> <p>15</p> <p>16</p> <p>16</p> <p>17</p> <p>17</p> <p>18</p> <p>18</p>	<p>Bohra Farzul Kadir of Galiakot exported wheat and Ghee 2 Manis 7 Maunds Kacha (15½ Maunds) from village Seran, <i>Shergarh</i>, so the duty of Rs. 16/8/- charged by the State.</p> <p>Bohra Abdul Husain of Galiakot exported Ghee weighing 3½ Mds. Kacha (1¾ Maunds) from village Seran, so the duty of Rs. 6/6/6- charged by the State.</p> <p>Bohra Abdul Husain of Galiakot exported wheat weighing 2¼ Manis (13½ Maunds) from village Seran, so the duty of Rs. 2/12/- charged by the State.</p> <p>Ganehi Isa Musa of Godhra exported wheat and gram 5 Manis from village Vedan, so the duty of Rs. 8/14/- charged by the State.</p> <p>Ganehi Isa Umar of Godhra exported wheat 9 Manis (54 Maunds) from village Seran, so the duty of Rs. 10/13/- charged by the State.</p> <p>Laskari Dhanraj of Jhalod exported wheat 9 Manis (54 Maunds) from villages Tamtia and Seran of <i>Shergarh</i>, so the duty of Rs. 26/4/- charged by the State.</p> <p>Bohra Farzul Kadir of Galiakot exported Makki 7½ Manis (45 Maunds) from village Vedan, so the duty of Rs. 9/6/- charged by the State.</p> <p>Patel Bechar Jiwandas of Godhra exported Makki 9 Manis (54 Maunds) from village Vedan, so the duty of Rs. 11/15/- charged by the State.</p> <p>Sepoy Akabar of Godhra exported Makki 3 Manis (18 Maunds) from village Seran, so the duty of Rs. 3/6/- charged by the State.</p> <p>Laskari Dhanraj of Jhalod exported grain wheat 11 Manis. Gram 1¼ Mani from village Madkola, so the duty of Rs. 4/6/- charged by the State.</p>

APPENDIX 2.

From the Kamdar, Banswara State to the Political Agent,
Southern Rajputana States; letter No. 267,
dated the 7th April/1912.

In reply to your letter, dated Danpur, the 3rd April 1912, I beg to send 2 copies of the appeal preferred by the Rao of Garhi about Shergarh Sayar duly signed by him.

My comments on the subject are:—

In this representation the Rao chiefly bases his claim on the long possession of *Sayar* rights of Shergarh by his ancestors. In the first instance, no special treatment to him for his Patta of Shergarh can be recognized as it was also grant of the Banswara State like other portions of Garhi. It is proved beyond doubt and was referred to in my letter No. 586, dated the 16th August 1911 and No. dated to your address. It was granted to Rao Udai Singh by Maharawal Prithi Singh in recognition of his services during the campaign undertaken by Banswara against Sunth (*vide* pages 163 and 188 of the Gazetteer of Banswara and pages 33 and 42 of the Book entitled "Chiefs and Leading Families in Rajputana" in its issue of 1894 and 1903 respectively. There are papers in our State Record Office which corroborate the above. There may be papers in your Agency office as Col. Walter perhaps enquired into the matter. He himself does not, in the appeal under reference, insist on this point.

Secondly, the Rao does not adduce any proof regarding the long possession by his ancestor of this right. Contrary to this, we have got document in our possession which shows that the right of collecting customs in Shergarh and other parts of Garhi was enjoyed by the Banswara State from days of yore. This was admitted by Rao Ratan Singh himself. He complained to the Assistant Political Agent in his letter, dated the Ashadh Badi 5th 1928, that the Banswara Darbar were levying customs duty on Mohowa &c., from Kalals of his Patta who he said were enjoying *Mauft*. The Banswara Darbar replied by asking a counter question on Sawan Sud 7th 1928, as to whether the Rao possessed a Patta that the people of his Patta were exempt from the payment of customs dues; if so, he should produce the same. This question was not replied by the Rao, but the Banswara State in the end produced a letter written by Rao Ratan Singh to the Political Agent, Mewar. It was dated the Bhadwa Sud 13 Samat 1928, an authenticated copy of this letter was received in the State through Assistant Political Agency No. 814 dated the 29th September 1871. In this the Rao distinctly admits that customs duties are from ancient time levied by the State from merchants of his Patta and foreign States upon salt, tobacco &c., &c. He however complained in that letter that the Banswara Darbar wishes to charge the customs duty twice, by which he meant that the Darbar were also levying duty on goods within territory, as some years ago customs duty was charged upon goods when it was taken from one place to another within the State. This practice was actually existing 10 years ago.

From this we can conclude that Rao Ratan Singh had himself no objection to the import and export duties being levied by the State; all what he wished to object was the internal customs duty upon the people of his Patta.

Thirdly. In Sambat 1928 Maha Sudi 5th another application was filed by the Labanas of Garhi, Bankora, Thakarda and Metwala to the Political Agent, Mewar, complaining that the Banswara State has increased customs duties 5 times and seven times and these give them trouble. This was received in the State with Political officer's No. 200 dated the 21st February 1872 with the remark that the rules of customs duty then levied when compared with the rates formerly levied really shows much increase but that he could not say anything in the matter as the State has power and right to do so. He however added that had the duty been increased gradually the people might not have felt the burden so much. This shows that the customs duty was levied by the State in the Jagirs belonging to Solah Sardars.

Fourthly.—Our record contains Bahis which in their turn contain entries of customs duty recovered by the State from Shergarh and other parts of the Garhi. I give below a few of the entries out of many I came across in searching the old record *within the limited time I had at my disposal*.

(1) In Bahi of st. 1939 customs duty of Rs. 95 was charged upon Til 38 Manis in weight and removed by the Banjaras Lachha, Mana and Kalana of Peeth who purchased them from villages Bhukhia, Padlia (of Garhi) Madkola of Garhi) Kotra (of Garhi Maden, Khanjaria, Chhaja Shergarh (of Garhi) and Dandia (of Garhi.)

(2) In the same Bahi of the same year at page 35 Nayak Teja, Vagla and Thomal of Nanitodina paid Rs. 25 upon Til 10 Manis in weight purchased at and loaded from Bhukhia and Re. 1/- upon 6 potis of wheat from Shergarh.

(3) In the same Bahi of the same year at page Nayak Godara Shiv Singh of Peeth paid Rs. 25/- Makki 25 Kalis in weight purchased at and loaded from Shergarh proper, Damor and Tamatia of Shergarh.

(4) Again in the same Bahi of the same year Nayak Harma Hakrana and Mathura paid Rs. 3/- upon wheat $1\frac{1}{2}$ Kalis in weight purchased at and loaded from Sallupat &c., &c.

(5) In Sambat 1950 Lakhara Karma of Chandarwara of Shergarh sold 18 Tolas of opium for Rs. 3/- in Shergarh without paying customs. He was fined Rs. 27/- &c., &c.

(6) In 1942 Nayak Chatar Bhuj Daulat Ram of Shergarh paid Rs. 27/- upon Makki 18 Manis in weight at Rs. 1/8/- per Mani.

(7) In the same year Nayak Kana Pema paid Rs. 15/- upon Makki 10 Manis in weight purchased by him at and removed from Shergarh &c., &c.,

Note—These are a few precedents out of many we could come across in the limited time at our disposal. All that we could get hold of is out given to save delay. It will thus be seen that the claim of the Rao of Garhi about levying customs duty from ancient time is without any basis and is thoroughly refuted. It is also established that the State enjoyed the right from days of yore and hence Mr. Holme was quite right when he wrote that this right belongs to the State,

Fifthly.—Annexure No. 6 quoted by the Rao has no weight for it is simply meant for his estate in Dungarpur, otherwise the Maharawal of Dungarpur could not write to him for a watch and guard of merchants and to make him answerable for the same in his estate in Banswara. The reference of Dan Bishawah in the annexure refers to the old customs of Biswah and Khunt levied by Jagirdars and not the customs duty of import and export as they still do in Partabgarh.

Sixthly.—The reference of enjoying the Jagir in annexure 7 by Maharawal Lachhman Singh is simply about Jagir and not about any particular right of that Jagir.

Seventhly.—No Jagirdars in any of these three Sister States enjoys the customs right however old his Thikana may be. The Chouhan Thikanas of Peeth in Dungarpur and Arthuna and Motagaon in Banswara are said to be existing from days before the states were founded still the right of customs has been enjoyed by the Jagirdars.

Thus the Rao cannot claim any such right against the State which alone has a prerogative right for the same.

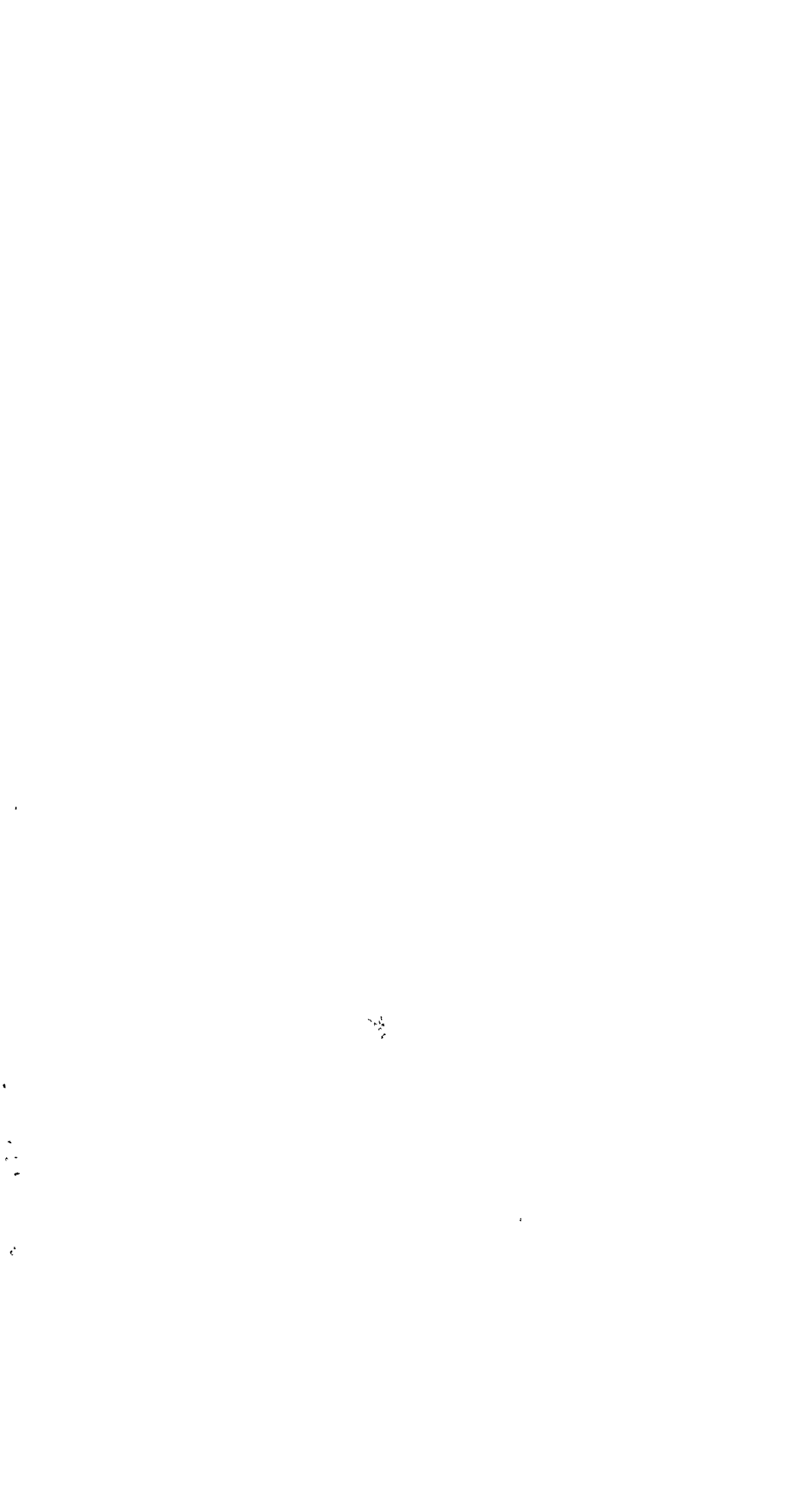
As regards your Enquiries I beg to say that Chouth is still paid by Garhi to Sunth through the Banswara State. The annual sum paid is Rs. 243-13-6. Copy of the usual forwarding letter and copy of reply are attached herewith. The periods of Rao Ratan Singh's Kamdarship is first from St. 1900 to 1906 and second from St. 1931 to 1933. It is also to be noted that Rao Ratan Singh's father Arjun Singh was also Bhanj gara (Councillor) from 1895 to 1897.

The Rao holds a Patta for Chitri in Dungarpur copy of which is submitted. It will be seen that out of 9 villages only three are at present in the possession of the Rao,

The Durbar opened Nakas in ancient times in Khandu, Arthuna, Anjana of Garhi) now transferred to Sallupat (of Garhi) and in this time one at Chhaparia Khandu.

In conclusion I beg to request that before giving any final decision on the subject you will kindly enquire from the State about any other point that may come in your way to oppose the State's claim which I hope will

be replied from the State records which possesses many such documents. I may also very humbly submit that the time allowed to make comments was not sufficient to do full justice to such an important question as I have not been able to get the whole record inspected which you know is next to impossible in the time allowed.



APPENDIX 3.

Kamdar.

Please report if the Maharaj of Khandu will be satisfied with this arrangement.

- (1) Khunt of all kinds to be abolished, whether on carts or according to the contents of the carts,
- (2) The customs department to pay to the Maharaj one-fifth of the gross annual income of the Khandu customs barrier.
- (3) The arrangement to continue until the present form of Administration, under the Assistant Resident, comes to an end.

(Sd.) A. T. HOLME,
13th July 1905.

APPENDIX 4.

Translation copy of a Khat dated Udaipur Bhadwa Badi 13th
Sambat 1928 from Ratan Singhji of Udaigarh to Col.
John Piccot Nixon, Political Agent, Mewar.

That never has it been our intention to complain against the Maharawal Sahib but when we requested the Maharawal Sahib of Banswara a number of times and he would not listen, as a last resource we approach you with a prayer which may kindly be gone through. The prayer is that since the day, the Patta has been bestowed upon our ancestors several generations of our and Maharawal Sahib of Banswara's family have passed and no encroachment was made upon our rights and dignity. Now the Maharawal Sahib with a view to ruin us is introducing new things viz. that customs duty is not levied twice on Mahowa, Tabacco, Salt &c., purchased by Kalals, Mahajans and other Merchants of our Patta. *No doubt if foreign merchants and merchants of our Patta import articles from foreign territory, the state duty is levied upon them from times immemorial but now the state desires to levy duty twice on the same articles and harasses us by sending Dhons.* Such things never happened before and it is not possible even now that the state should levy duty twice from the Assamis as by introducing new things we are the losers. Unjustly in petty things the State wants to deal with us fraudulently and involve us in quarrel. Taking into account the fact that the Maharawal Sahib is our Sovereign we bear every thing and the Maharawal Sahib has no idea of that. By introducing new things the case of disturbance arises. If quarrel would arise in any thing you would be angry saying why the matter was not first reported to you. The Maharawal Sahib was requested many a time but no reply was received. Unjustly and without any cause he is sending Dhons. Even in this matter Dhons is sent. It is therefore humbly prayed that you with a view to avoid quarrel may kindly inform the Maharawal Sahib through your Assistant at Banswara that no new and unjust thing be introduced and no encroachment be made upon our old rights and dignity. By worrying us in such matters our submissive nature is changed towards the ruling Chief so you have been written to as our superior officer. It is hoped that you will make proper arrangements about it ; the matter is left to your decision.

True Translation,



Kamdar, Banswara State.

Translated purport of a Robkar No. Dated the
 20th September 1871 from Colonel John Picott
 Nixon, Political Agent, Mewar.

Khat dated Bhado Badi 13th Sambat 1928 from Ratan Singh of Udaigarh to the effect that since the day our Patta has been bestowed upon us several generations of our and Maharawal Sahib of Banswara's family have passed during which period no encroachment were made upon our rights and dignity. Now the Maharawal Sahib with a view to ruin us is trying to introduce new things. The customs duty is not levied twice on Mhowa, Tobacco, Salt &c., purchased by Kalals, Mahajans and other merchants of our Patta. The practice is that if the foreign merchants and merchants of our Patta import articles from foreign territory the duty is levied according to the old precedent. Now the Maharawal Sahib is trying to levy duty twice on the same articles and harrasses us by sending *Dhons* in order that an arrangement may be made for future. "The Khat was gone through and ordered that a copy of the Khat be forwarded to Mr. Franji Bhikaji, Assistant Agent, Banaswara with a request to submit a detailed report as to whether by taxing tobacco and salt it is said to introduce new things or not.

From Assistant Political Agent, No. 841 dated 29th September 1871.

Ordered that a copy of these papers may be forwarded to Vakil, Banswara with the remark that in this matter, Parcha No. 821, dated the 23rd September 1871 has been sent to you for submission of a detailed report. Now the copy forwarded to you be fully gone through and reply of all the points raised therein be submitted.

(Sd.) FRAMJI BHIKAJI,
Assistant Political Agent,

True translation.


Kamdar, Banswara State,

APPENDIX 5.

Translated purport of a copy of Petition dated Maha Sud 5
Sambat 1928 from Panch Labanas of village Agarpura
Taluka Udaigarh, village Mor, Tabe Bankroa,
village Rohania Tabe Thakarda and village
Garha Tabe Metwala to Colonel John
Picott Nixon Political Agent,
Mewar.

That the rate of duty which was formerly levied from us by the Banswara Durbar for export and import of grain, Tobacco &c., has been raised to five or seven times the duty of past years and unjustly harrasses us the poor people. The duty is raised on the following articles :—

Duty in vogue in past years.	Duty now in vogue.
Tobacco Pothi—0-7-0. (Pack bullock)	4-8-0.
Til per Mani—0-4-0. (6 Maunds)	4-0-0.
Salt per Mani—0-4-0. (6 Maunds)	1-0-0.
Mhowa flowers per Mani—0-4-0.	3-0-0.
Gur Pothi—0-4-0.	1-4-0.
Food grains per Mani—0-4-0. (6 Maunds)	1-4-0.

Thus the poor people are harrassed. That taking into consideration our poor condition, the Banswara Durbar be asked to cease to levy unnecessarily enhanced duty and our grievance be redressed. If you will not listen to our prayer who will take care of us. So kindly distinct orders be given in the matter.

FROM RESIDENCY, MEWAR,
No. 105, dated the 16th February 1872.

Copy forwarded to the Assistant Political Agent for favour of report,

FROM ASSISTANT POLITICAL AGENCY,
No. 200 dated the 21st February 1872.

Copy forwarded to Vakil Banswara with the remark that the duty now levied as compared with that levied in the past as per petition is in reality very high. Though the undersigned can say nothing in such matters as the State is authorized to do as it pleaseth, Yet if the duty had been raised little by little the petitioners would not have felt the burden so heavy,

(Sd.) FRAMJI BHIKAJI,
Assistant Political Agent.

APPENDIX 6.

Translation of Parwana No. 78, dated Bhadwa Badi 9th Sambat
1944 from Banswara Durbar to Rao Gamir Singh of Garhi.

Your petition No. II dated the Asad Badi 14th Sambat 1944 being perused. The Sayardar of Mandvi was asked to report about it. He reports that the traders of Shergarh Ilaka Haja (under Banswara) imports goods from Gujarat &c., do not pay customs duty so you are addressed to urge the Mahajans and traders according to previous orders that they should pay customs duty to the Nakedar at Kalinjra otherwise a Dani (Nakedar) will be posted at Shergarh itself.

APPENDIX 7.

**Translation of Arzi (application) No. 58, dated the Katic Sud
6th Sambat 1944 from Rao Gambhir Singh of Garhi to
His Highness Maharawal Lachman Singh.**

In reply to my Arzi No. 11 your Parwana No. 78 dated Bhadwa Badi 8th Sambat 1944 was received to the effect that merchants of Shergarh do not pay customs duty on articles they are importing from Gujarat &c., so they may be directed to pay the duty to Dani at Kalinjra Naka. In reply I beg to state that on receipt of previous Parwana dated Asad Pad 6th I had requested to communicate to me the names of smugglers but their names are not given even in this Parwana. The communication is vague still as a precautionary measure through the Faujdar of Shergarh the matter was enquired into. From enquiry it appears that most of the merchants of Kalinjra, Vagidera, Talwara, Partapure &c., have their shops at Shergarh. They state that they are importing goods from Gujarat to Shergarh. When after selling at Shergarh they carry the balance away to their homes at Kalinjra, Vagidera &c., for sale, they pay customs duty on those goods to the Dani. Till now they have not smuggled any goods still all the merchants of Shergarh have been warned that when they carry to their homes goods imported from foreign territory to Shergarh and sell them there they should invariably pay customs duty leviable thereon. If smuggling of any articles was proved they would be punished. They requested for information. Further orders for service may be communicated.

From Mahakme Khas No. 2590 Katic Sud 11th Sambat 1944.

The Jagirdar may be informed per Chitha that State order is not merely applicable to Mahajans of Kalinjra, Vagidera &c. It is applicable to all the Mahajans who may export articles to or import from foreign territory. All these may be directed to pay customs duty to Dani. If found to import articles from or export to foreign territory without paying customs duty they will be punished.

(Sd.) R. B. JWALA PARSHAD.

APPENDIX 8.0

Translation of entry at page 23 of Bahi of Pathog Bhukia for the recovery of customs duty for Sambat 1950. This Bahi is entered at No. 313 Record office.

Credited by Bhat Dani Maneklal on Jeth Badi 14th. Lakhara Karim of Chandarwada sold opium weighing 18 Rupees for Rs. 3 and did not pay customs duty (Dan Churaya) so customs duty of that including fine amounting to Rs. 27/- for which was passed payable to Sri Durbar has been recovered by Bhat Maneklal and paid by him.

APPENDIX 9.

Memorandum regarding the complaints of the Rao of Garhi of Banswara.

In February 1885 the Rao of Garhi submitted a letter in English to the then Offg. Resident of Mewar Mr. Plowden, claiming the separation of his Shergarh estate from the jurisdiction of the Maharawal of Banswara.¹

The Rao grounds his claim to separation mainly because during the time previous to the establishment of a separate Assistant Agency at Banswara, his predecessor had a Vakeel always in attendance upon the Political Superintendent Hilly Tracts Mewar. I can find no authority for this except in a letter written by Major Mackenzie, when Political Superintendent Hilly Tracts, No. 179 P. dated the 5th of November 1868 to the then Resident, Mewar, in which he remarks with reference to a complaint from the Maharawal of Banswara, protesting against a direct correspondence between Thakur Ratan Singh of Garhi and himself as a recent innovation, as follows:—

“Until recently the custom was a necessity, arising from “the absence of Vakil or Agent on the part of “Banswara with this office through whom the work (in connection with the numerous cases in which tenants of the Thakur of “Garhi are concerned that come before the Political Superintendent of Kherwara for Adjustments with the Political authorities in the Rewa Kantha and Punch Mahals) could be carried on but being myself of opinion that the practice was open to objection and even might eventually lead to complication on a Vakil from Banswara being attached to my office. I wrote to Thakur Ratan Singh directing him who addressed me through the Durbar. Copy of my letter and his reply are annexed for your information, and, I have only to add that on verbally submitting the question to the Agent Governor-General on his recent visit to Kherwara, Colonel Keating directed me, with reference to the unscrupulous administration and misrule existing in Banswara to allow the practice of a direct correspondence in cases concerning the peace of the border to continue pending the result of the approaching enquiry into the general mismanagement that is believed to prevail in the Banswara State.”

3. Upon this a Kharita of which I can now found no trace in my office, was written by the then Resident of Mewar to the Maharawal of Banswara and copy of the same forwarded to Major Mackenzie with a covering letter No. 398 dated the 10th or 16th November 1868.

4. In a letter No. 203 P. dated the 4th December 1868 Major Mackenzie forwarded to the Resident of Mewar a list of villages 116 in number comprising the Shergarh estate which forms a portion of the Thakur of Garhi's property adding,

“These villages were originally a part of the Sunth territory and came into the possession of the Garhi Chief five generations ago by conquest. They are not and never were included in Banswara proper and the Thakur has never paid Tanka (Tribute) to any state on account of them.

2. "The direct correspondence complained of by the Banswara Durbar refers to cases connected with this Shergarh estate, which have to be adjusted with the Punch Mahals and Rewa Kantha Agencies. And as the present Banswara Administration by no means warrants the discontinuance of a practice that has prevailed ever since the establishment of the Kherwara Superintendency and which affords grater facilities for the transaction of business and the preservation of peace on the frontier, I am of opinion that it should be maintained.

3. "Ratan Singh the present Thakur of Garhi is a superior much respected by all classes and he manages ably and with much credit his large property, which includes besides his Shergarh estate and Jagir in Banswara a valuable Jagir in the Dungarpur State. He is desirous of keeping up an Agent in attendance at Kherwara for the adjustment of cases that arise in connection with Shergarh and the Punch Mahals and Rewa Kantha Agencies, and I hope there may be no objection to his arrangements."

5. I cannot find that any authoritative decision was ever given on the point mooted by Major Mackenzie that the villages comprising the Shergarh estate are not and were never included in Banswara proper, and that the Thakur has never paid (Tanka) tribute to any state on account of them."

6. I am of opinion for the reasons given below that Major Mackenzie was in error in stating that these villages came into possession of the Garhi Chief five generations ago by conquest. For in the Gazetteer of Banswara I read "in 1747 Prithvi Singh came into power, he fortified the town of Banswara and attacked and plundered Sunth and seized the district of Chilkari in the Sunth south west of Banswara."

Note. Chilkari is now called Shergarh.

7. In a printed report written by Captain MacDonald, Assistant to Major General Sir John Malcolm in (I think) A. D. 1819, I find that he writes, regarding the estate of the Jagirdars or Nobles of Banswara in following manner:—

"2nd" The next are the lands held by the nobles and servants of the Government. The grants of these individuals are of two kinds but have no distinguishing appellations. By one the Rawal reserves to himself a portion of the revenue of the village, but he allows the Jagirdars to make the whole collection taking from him the share reserved and does not permit the Governments to levy any contributions, as is practised in Dungarpur. The second form of grant is exactly the same as Areonkhar of the above named principality. In neither cases do the grants confer on the Jagirdar any claim to the lands in perpetuity. The right of the Lord Paramount to resume any part or the whole at his pleasure is by no means invalidated. We are not without instances of the practical display of this prerogative, and some of these recent are of a nature to prove that it is not a mere nominal power tacitly acknowledged, when its execution is suspended and liable to be disputed when brought into operation, but an indubitable right of the Prince, at times actively and rigorously exercised. The Rawal

Prithi Singh about 40 years ago confiscated all the lands of Udi Singh Thakur of Garhi and retained them in his own hands a full year. The Thakur fled to Udaipur from which place the Prince at the intercession of some of his friends recalled him after one year's absence and reinstated in his Jagir."

"A still more recent example of the exercise of this privilege occurred 17 years ago. Jodh Singh Thakur of Garhi was by the Rawal Bijai Singh stripped of all his possessions and fled to Salumber, with a view of intimidating the Rawal to reinstate him he was instrumental to the incursion of a Maratha detachment; nevertheless he failed in his object and died 8 months after his flight to Salumber at Banswara near that place. His son, however was about 4 years afterwards recalled by the Rawal and reinstated in the Jagir of Garhi at the intercession of a Charan."

8. These extracts show pretty clearly that the Thakur or Rao of Garhi has always been a dependent of Banswara. Indeed no claim was ever made for independence until the present Rao, who is an adopted son of the late Rao Ratan Singh succeeded to the estate. At the time of his succession he demurred to pay any thing but a nominal succession fee, but had ultimately to pay a sum of Rs. 15,000.

9. When at Banswara I informed the Assistant Political Agent that there was no necessity for him to report on the claim of the Rao of Garhi to independence, that I had myself been enquiring into the matter, and would deal with it. Accordingly after consulting the Maharawal of Banswara, I summoned the Rao of Garhi and told him that his claim to independence would not be listened to for one moment. I explained to him the reasons which had induced me to this decision, and warned him that in future implicit obedience to the legitimate order of the Durbar would be insisted on.

10. I took the opportunity of my visit to Banswara to deal also with another complaint of the Rao of Garhi *viz.*, his seat in Durbar. It appears that at the Dasserah of 1885 when the usual Durbar was held by the Maharawal, the Rao refused to take his proper seat and endeavoured to persuade the other Sirdars who sit above him, and who had already taken their seats to rise from their places, and take up their position in front of the Gaddi, as he declared was the usual custom, and upon their declining to do this, he expostulated with the Maharawal in open Durbar, and walked out of the Durbar. Upon enquiry I found from the Durbar records that the Thakurs of Banswara take precedence as follows:—

- 1st Molan or Mota Gaunm.
- 2nd Metwala.
- 3rd Arthuna.
- 4th Garhi

and the reason for this precedence is that although the three who sit above Garhi own much smaller estates than he does, yet they have always ranked above him as having originally come to Banswara long before the Thakurs of Garhi who only received their estate in Banswara in the middle

of the last century. It is true that in the Gazetteer Captain Yate puts the Rao of Garhi above the Thakur of Arthuna, but in the list of villages given by Col. Mackenzie in his report of Banswara No. 43 P. dated the 25th February 1869 they are entered as follows:—

Thakur of Mota Gaom.

„ „ Metwala.

„ „ Arthuna.

„ „ Garhi.

The Durbar of Banswara now affirm that this is the proper order of precedence, and in proof Arthuna sitting above Garhi produced a Photograph of a Durbar at Banswara taken some years ago in which the Thakur of Arthuna is sitting above the late Rao of Garhi. The present Rao in his defence states that it has never been the custom in Banswara for the Thakur to sit in order of precedence, that they always sat as they might come in, in front of the Gaddi of the Chief. Now the custom in all the states in Rajputana is much the same and in none do the Chief Sardars sit in front. This position is allotted as a rule to relatives of the Chief and to others who are specially allowed such seats, and in refutation of the argument of the Rao I need only quote from the Gazetteer in Banswara there were once 16 Nobles of the first rank right whom the Sisodias and Chouhans sit on the right of the throne (Gaddi) and the remaining Rathors on the left. The Garhi Rao is Chouhan; another refutation of the Garhi Rao's assertions that it is not the custom to sit on the right and left in order of precedence is to be found in the list of grievances put forward by the Thakurs of Banswara, amongst whom the present Rao of Garhi was one of the most importunate, and regarding which the then Political Agent, Lieut. Col. Eurnsmith reported in his letter to the Resident No. 128 dated the 23rd January 1883 No. 7 in the Darikhana (that is Durbar) the Sardars shall be seated in order of precedence." To which the Maharawal replied "they shall sit according to the ancient order of precedence." When at Banswara lately the Rao of Garhi was ordered by the Maharawal to accompany him in his formal visit to me. The Rao insisted on having the first seat after the sons of the Chief, this I declined. The Maharawal sent several times to summon him but he refused to come, the Durbar was much delayed in consequence of this contumacious conduct on the part of the Rao.

11. After consulting the Maharawal, I the next day sent for the Rao and informed him that the Maharawal was to hold a Durbar that afternoon for my reception and that unless he was present and sat in the seat assigned to him by the Durbar I should submit a report of his conduct to the Agent the Governor-General and that the consequence to him would be very serious. I am glad to say that the Rao listened to my warning and was present at the Durbar seated in his proper place.

12. Another grievance of the Rao was regarding the confiscation of his village of Puddar, he is stating that he was not aware for what fault on his part this village had been taken over by the Durbar. The matter which

led to the confiscation of the village was fully reported to the Agent to the Governor-General in my letter No. 11 p dated the 27th of May 1885 and the action taken was approved by the Agent to the Governor-General and by the Government of India *vide* letter as per margin. In my report I

Rajputana Agency letter No. 89
P. dated 26th June 1885.

Foreign Department letter No.
2198 L. dated 6th July 1880.

stated that the return of the village is made contingent on the Rao's good behaviour.

13. The Durbar would probably have restored the village to the Rao ere this had he not in so many ways endeavoured to set the Maharawal's authority at defiance, and as a punishment for his behavior in refusing to attend the Maharawal as ordered when His Highness paid his official visit to me. The Durbar have determined not to restore the village for atleast another year, and not even then, unless the Rao proves by his conduct in the meantime that he is worthy of this act of grace.

(Sd.) C. K. M. WALTER,

UDAIPUR,
dated 22nd February 1887.

COLONEL,
Resident, Mewar.

No. 202 of 1887.

Copy forwarded to the Assistant Political Agent, Banswara and Par-
tabgarh for record in his office.

(Sd.) C. K. M. WALTER,

UDAIPUR,
The 26th February 1887.

COLONEL,
Resident, Mewar.

APPENDIX 9. A.

Translation of letter No. 857, dated 25th August 1877
from the Assistant, Political Agent to the
Rao of Garhi.

Your Khat No. 245 dated the 15th August 1877 together with statement of claim of Shergarh people plaintiffs against subjects of Sunth state defendants was received which is returned in original without passing any orders thereon with the remark that you are addressing direct to us is contrary to the usual practice as you have been a noble of Banswara Durbar and Garhi and Shergarh belong to Banswara and they are held by you in Jagir and we know it perfectly well that the correspondence regarding cases of Garhi, Garhi Shergarh is always made through Banswara Durbar and if any correspondence had been sent by you to Kherwara and the reply thereto would have been received by you, such a procedure would have taken place through ignorance of fact. That cannot be taken as a practice and precedent. In the beginning we had addressed you directly on your own statement that Shergarh Jagir was separate from Banswara but subsequently it was known from the Durbar that your statement was incorrect. Much correspondence and contention was carried on with you on this subject; evidence was called from you but you could not give any. At last a period for production of evidence was fixed but even then you did not produce any evidence. Subsequently we went through old papers of Mewar Agency from which it was clearly known that all correspondence regarding Shergarh Chilkari was carried on and continued to be carried through Banswara Durbar and boundary dispute case and all work relating to Chauth &c., of villages of Chikari Shergarh were conducted between Banswara and Sunth through Banswara Durbar and all correspondence regarding cases decided by Capt. Brook and Mr. Oglvie was carried on through Banswara Durbar it is therefore a matter of regret that such a false writing should be submitted by you. The file is not with us otherwise we would have returned you with more force that it is a mistake of yours that you referred to direct correspondence with us and bring forward the plea of correspondence with Kherwara cannot prove that you had always direct correspondence with us and your writing that there being no correspondence from the Durbar to Sunth the cases of the people of your estate were dismissed is correct. The reason is that in the hope of establishing the practice of corresponding direct you did not submit a report to the Durbar at the time of occurrence and when the Patrak (statement) was submitted the time for report had expired. You may now think who is to blame. You tried to adopt a new practice and thereby your people suffered. Wherefor the papers are returned to you with the remark that you should not intend to do anything which is new or contract to the practice; that you should do every thing to the Durbar whereby parties may not have any misunderstanding; that the Durbar has also complained of your remitting Tanka to Sunth direct so it would be better that if you keep yourself aloof from establishing new procedure, Your welfare may be communicated. 25th August 1877. No. 857.

From Mahekme Khas..

Ordered that after keeping a copy the original Khat from the Assistant Political Agent to the Rao of Garhi together with statement may be forwarded to the Rao with a request to acknowledge the receipt of the same and the Rao may be directed not to do anything which is new or contrary to the practice in future. Savan Badi 14th Sambat 1934.

APPENDIX 10.

Register Chitha Book of Sambat 1934, Account Office
record No. 92 Register.

Copy of Chitha addressed to Rao Ratan Singh of Garhi Serial No. 92. The Bhils of Shergarh have been rebellious since a long time. In order to quell the ir rebellion you have been successively many a time enjoyed but you have not been able to do anything. Now in these days, there having been too many complaints about Bhils of Shergarh the Political Agent, Mewar and Assistant Sahib has strictly enjoined to make arrangements for their suppression with a view to quell the rebellion Lala Gaurishankar Nazim Adalat Fauzdari is deputed from here. He will make such arrangements to suppress them as may be deemed necessary. You are therefore asked to direct the Thanedars &c., of Shergarh not to put any obstacles by going against him in the arrangements the Nazim may make. Rather they may act according to the orders of the Nazim and may join him in making arrangements. An agreement may be taken from the kawat of Shergarh Zillah that they may not commit any offence in Panch Mahals, Rewa Kantha and in the territory of this state. If you will bring forward any excuse or will fail in carrying out the orders and if any complaints will be received from the Nazim regarding your men some other arrangements for the same will have to be made from here. Please note this.

Bhadwa Sud 3rd Sambat 1934.

APPENDIX 11.

Order of the Resident in Mewar on an appeal, presented by the Rao Rai Singh of Garhi and dated the 5th April 1912, against order passed by the Assistant Resident, Mewar, in September 1904, rejecting the claim of Rao Sangram Singh of Garhi to independence of the Banswara State of the Shergarh district of his Jagir and his claim to the right to levy customs duty in that district and ordering the opening of a Banswara State customs Post at Salupat in the Shergarh district.

1. The decision of Assistant Resident, Mewar, against which the appeal is presented, is contained in his letter to Rao Sangram Singh of Garhi dated the 23rd September, 1904, replying to the Rao's letter No. 245 dated the 28th August, 1904. This decision was one which the Assistant Resident, in his capacity as in charge of the Administration of the Banswara State, was empowered to pass. In the II Paragraph of the appeal it urged that the Rao's claim should ordinarily have been referred to the Banswara State Council. This, however, was not necessary, since under the rules laid down by the Government of India for Administration of the Banswara State, it is optional with the Assistant Resident to refer any matter for consideration by the State Council or to decide it himself. The decision of the claim by the Assistant Resident was therefore neither irregular nor *ultra vires*.

2. The reason why no appeal against this decision of the Assistant Resident was made to the Resident in Mewar for over seven years from the date of the decision is explained in the 14th paragraph of the appeal. In view of the facts therein stated and in consideration of the fact that, at the time the appeal was presented to this court, no law of limitation in respect of such appeal was in force in the Banswara State, the right of appeal must be admitted.

3. The reliefs asked for in the memorandum of appeal are.

(a) that the orders of the Assistant Resident directing the opening of a Banswara State customs' post at Salupat and Vareth in the Shergarh Ilaka of the Garhi Thikana be cancelled and that an order for its removal be granted

(b) for a declaration of the right of the Rao of Garhi to levy his own customs dues in the Shergarh Ilaka, and

(c) For the refund to the Garhi Thikana of all amounts collected as Sayar (customs) duty from the Shergarh Ilaka by the Banswara State from the date of the opening of the state customs post at Salupat, together with reasonable interest on those amounts.

It is obvious that if the relief asked for in (b) be not accorded, the reliefs asked for in (a) and (c) must also be denied.

The chief issue to be examined and decided is therefore, has the appellant established his contention that the Garhi Thikana, and not the Banswara State, has a right to levy customs duties in the Shergarh Ilaka ?

4. The claim that the right to levy customs duties in the Shergarh Ilaka belongs to the Jagirdar of Garhi and not to the Banswara State depends on the nature of the Jagirdars's tenure of the Shergarh Ilaka and the conditions under which he has possession of it.

The Raes of Garhi have claimed in the past that the Shergarh district of their Thikana is not an integral portion of the Banswara State and that they hold it independently of that State. This claim was raised as far back as A. D. 1868 and carefully examined by Colonel Walter, then Resident in Mewar, in this memorandum dated the 22nd February, 1887 and rejected, yet the same claim was put forward by Rao Sangram Singh in his letter to the Assistant Resident dated the 28th August, 1904, (see Annexure No. 8 to Memorandum of appeal) in the following words :—

"I find it necessary to point out the fact, with which you are, I think, not conversant, that Ilaka Shergarh, in which Salupat is situated, is not a grant from the Banswara State. This Ilaka was acquired by my ancestors and for a considerably long period its relation has remained with Kherwara. The Chouth of this Ilaka is even now paid to Sunth Rampur and Jhalod. The State has not relation with this Ilaka Ever since, we take Des Dan (customs) because the whole Ilaka is ours. Therefore the interference of the State in this is not proper." This claim was rejected by the Assistant Resident in his decision against which this appeal is made in the following words :—

"I have to State that I have looked through old files on the subject. From your statement it is evident that your claim is directed towards independence for Shergarh and the strong evidence you advance is that you give Chouth of Ilaka Shergarh to Sunth. But I am unable to accept your claim. From a note of 1887, left by Colonel Walter in his office file, it appears that the claim was not accepted by him at the time. To the best of my knowledge, there is no ruling or precedent that would give weight to this your claim".

(see Annexure No. I to Memorandum of appeal.)

5. Though Rao Rai Singh in his appeal under consideration disclaims (in paragraph 3 and 5) any intention to raise the question of the independence of the Banswara Durbar in respect of the Shergarh Ilaka, and bases his claim on the fact that, prior to 1904, the Banswara State had never claimed nor collected customs in the Shergarh Ilaka, the same arguments as put forward in Rao Sangram Singh's letter are advanced by him as explaining why the Garhi Thikana has enjoyed the Sayar Revenue of the Ilaka undisturbed and uninterrupted, continuously and consistently, for more than a century (see paragraph 5 of Memorandum of appeal.)

As no claim to independence of the Banswara State in respect of the Shergarh district is advanced, this matter would require no examination!

but for the fact that the claim that the Banswara State has no right to interfere with the collection of Sayar, or customs dues, in that district, hinges on the nature of the possession of the Rao of Garhi over that tract.

6. Colonel Walter, in his Memorandum, quoted above, has shown that evidence exists to prove that Maharawal Prithvi Singh of Banswara "attacked and plundered Sunth and seized the district of Chilkari to the South-west of Banswara," that the whole of the estate of the Rao of Garhi (Rao Udai Singh) were confiscated by the Banswara Darbar about 1779, when the Rao fled to Udaipur, and that the Rao was only reinstated by the Darbar in his Jagir a year later, owing to the intercession of his friends, and that in 1802 the Banswara Darbar again confiscated the estate of Rao Jodh Singh of Garhi, who fled to Salumber and died there which estates were, four years later, regranted by the Darbar to Rao Jodh Singh's son.

The fact first mentioned above is further supported by the account given in "Chiefs and Leading Families in Rajputana," a work quoted, in support of his appeal, by Rao Rai Singh in the fourth paragraph of his Memorandum) of the Garhi family, from which I quote.

"of the whole estate, one hundred and twenty-five villages," comprised as the district of Chilkari were "conquered by Banswara troops from the neighbouring state of Sunth Rampur in Rewa Kantha and were subsequently bestowed free of tribute on Thakur Agar Singh, the first of the Jagirdars of Garhi who came to Banswara from Thakarda in Dungarpur towards the middle of the 16th century and received from Maharawal Udaisingh II the Jagir of Wasi) the Leader of the force."

In the face of the evidence above mentioned there is no reason to accept the statement, unsupported by any evidence as it is made in the fourth paragraph of the Memorandum of appeal that "Shergarh or Chilkari as it is otherwise called, was conquered by my ancestor Ude Singh (died in Samvat 1831 or 1775 A. D.) from the neighbouring Riasat of Sunth (Rampur) about the middle of the 18th Century A. D. Ever since its conquest, the territory has been in the full enjoyment of Garhi." Rather it is obvious that

- (1) The Shergarh Ilaka was conquered by the Banswara troops and incorporated in the Banswara State :
- (2) The district was subsequently granted in the Jagir by the Banswara Darbar to Thakur Agar Singh, the ancestor of the Rao of Garhi :
- (3) On two occasions the Jagir has been resumed by the Banswara Darbar : and that
- (4) There is no reason to consider the possession of the Raos of Garhi over the Chilkari, or Shergarh, portion of the Garhi Jagir as differing in any way from the nature of their possession over the Garhi portion of that Jagir, except in as far as the former portion would

seem to have been originally granted as a special reward for military services, in consideration of which no tribute from the Jagirdar of Garhi is levied by the Banswara State in respect of the Shergarh district.

7. Having thus considered the assertions, as to the nature of the possession of the Raos of Garhi over the Shergarh Ilaka, made by Rao Sangram Singh and reasserted in the present appeal, the further arguments and evidence in support of the contention that the Garhi Thikana has enjoyed the right of taking the Sayar, or customs collections, of the Shergarh Ilaka uninterruptedly for more than a century, and that this right was never challenged by the Banswara State till 1904, requires to be examined.

8. In the Memorandum of appeal it is asserted that ever since the acquisition of the Shergarh Ilaka by the Jagirdar of Garhi, the Jagirdar and not the Banswara State has taken Des Dan (customs) in it and that the Garhi Thikana has enjoyed the customs revenue of that district undisturbed uninterruptedly for more than a century, the continuous and consistent enjoyment by the Jagirdar of the right of collecting customs dues in the Shergarh Ilaka being proved by account books from old times in the possession of the appellant.

The proof of this assertion, it is stated that when in 1870 the officials of the Banswara State tried to claim right to levy customs in the villages of the Garhi portion of the Thikana in respect of which tribute is paid to the state by the Rao of Garhi, no claim was then raised in respect of the right to collect Sayar in the villages of the Shergarh portion of the Thikana, a claim which would undoubtedly have been raised had the officials considered that the Banswara State had any right to such a claim.

This statement has not been supported, as it might reasonably be expected that it should be, by extracts from the correspondence which must have taken place in respect of the claim raised by the Banswara State.

9. In this connection the Assistant Resident reports that correspondence of the year 1871-73 show that the Rao of Garhi complained to the Assistant Political Agent that the Banswara Darbar had begun to levy duty in his Patta there is nothing in the correspondence to show that the complaint referred only to the Garhi portion of the Thikana. On the matter being referred to the Banswara State, the Darbar denied that the Rao of Garhi held any sanad exempting the inhabitants of his estate from payment of the duty to the Banswara Darbar. The Rao of Garhi subsequently made no attempt to prove that he alone was entitled to Sayar collection in his Patta. There is nothing on record to show that any definite settlement of the respective claims was arrived at but the fact that the Banswara State denied that the Rao of Garhi was entitled to take such duties and that by the Rao's own showing the Darbar had been collecting duty in his Thikana is evidence rather against, than for the claim that the Jagirdar of Garhi has enjoyed uninterrupted and undisturbed, the right to collect customs duties in the Shergarh portion of his Thikana.

10. It is argued in the appeal that when on several occasions, *e.g.*, in 1869, 1894 and 1902, the Banswara State made various attempts, with help of the British Government, to improve its financial condition, no attempt was made to appropriate or even claim a right to collect customs in the Shergarh district. Also when various Kamdars of the Banswara State tried to improve the Sayar revenue of the State, no attempt was made by them to claim the right to take the Sayar of the Shergarh Ilaka, had the Darbar any right to such duties in that district such an important item of income would not have been neglected.

This argument cannot be accepted in the face of the entries in the Bahis of the Banswara State, which show, as reported by the Assistant Resident, that duty on exports from the Shergarh Ilaka were levied by the State in 1882 and 1885 and that in 1893 a fine was imposed by the State in respect of the sale of opium in Shergarh on which no duty had been paid to the Banswara State. There is nothing on record to show that the Rao of Garhi raised any protest against the collection of the duties and fine alluded to.

11. A contention raised in the appeal, which has not been rebutted in the Assistant Resident's report on the claim is that, during the minority of Rao Sangram Singh of Garhi, the Garhi Thikana was administered under the supervision of the Banswara Darbar and the Sayar income of Shergarh was credited by the Durbar to the Thikana and not taken by the State.

12. The claim of the appellant that the letter from the Dungarpur Darbar dated the 14th February, 1872 (Annexure No. 6 and paragraph 5 of Memorandum), directing that the Rao of Garhi should, for five years, forego the collection of Dan and Basawa on merchants and pilgrims attending the Mela at Sabla (Dungarpur) and passing through the Rao's Patta, establishes the right of the Garhi Jagirdar to collect customs in the Shergarh Ilaka, requires no examination as there is nothing in the wording of the letter to prove that it refers to the Shergarh portion, more than to the Garhi portion, of the Thikana. Nor does the letter from "Katari" from Maharawal Lachman Singh addressed to Rao Ratan Singh of Garhi in Samvat 1920 (Annexure No. 7 and paragraph 10 of the Memorandum) contain any special allusion to the right to collect customs in the Shergarh district.

13. It is asserted in the appeal that it cannot be disputed that Garhi has enjoyed the Sayar revenue of Shergarh (para of the Memorandum) and that the fact that the Rao of Garhi was collecting Sayar in the Shergarh Ilaka was not in 1904 denied by the Assistant Resident.

It is I understand, admitted that the Rao of Garhi has in the past, made collections of the nature of customs duty in that Ilaka: but the claim that the exercise of the right to take the customs duties of the Shergarh Ilaka, has been acquired, as against the Banswara State, by prescription, is not acknowledged and is not, in my opinion, proved, prescriptive rights can

only be obtained by undisputed and undisturbed "user" during a definite period of time. The appellant has not established undisputed and undisturbed user of the right nor has it been proved that he has enjoyed this right for such period of time as under the laws governing the acquisition of rights by prescription in the Banswara State enable him to claim that this is his by prescription.

14. The attempt made in the 8th paragraph of the Memorandum to prove what has constituted prescription in neighbouring tracts by citing that in Mewar, where there was a long standing dispute between the Darbar and its feudatories, it was decided by the Kaulnama of 1854 that "Dan" (sayar) etc., should belong to those feudatories who had enjoyed the same from the time of Tod and Cobbe as proof that in Mewar enjoyment of the practice of collecting customs duties for 36 years constituted prescription, is based on a misrepresentation of the facts which as mentioned in "Treaties, Engagements and sanads" were these.

In 1818 Captain Tod found that many of the feudatories of Mewar were collecting customs duty, etc., By the Kaunama of 1818 it was established that Dan, Biswah is the right of Government and belongs to the Durbar alone. Yet, in spite of this declaration subscribed to by the feudatories, the collection of customs continued to be made by the feudatories in certain Thikana and the right of the Durbar to these denied. To put an end to this condition of things, the Kaulnama of 1854 (subsequently declared to be null and void) was devised. In this Kaulnama it was laid down that Dan etc., "belong to the Government," but those who have had the right of collecting such *Since Tod's and Cobb's time and who possesses the necessary sanad deeds will continue to collect them*,

From the above it is clear that only those feudatories who had of *right* collected customs since Tod and Cobbe's time and *were in possession of sanads bestowing the rights on them* were held to have acquired the prescriptive right to enjoy the same.

The Rao of Garhi possesses no sanad bestowing on him the right to collect customs in the Shergarh Ilaka, consequently the conditions of the Mewar Kaulnama are in no way opposite nor is the Kaulnama proof that 36 years enjoyment constitutes prescription in Mewar.

15. In respect of such enjoyment of the customs duties of the Shergarh district as the Jagirdars of Garhi have had in the past, and as a possible explanation of the reason why such enjoyment may have been permitted by the Banswara Darbar, it is suitable to refer to the large influence possessed, in time gone by, by the Raos of Garhi in the politics and administration of the Banswara State.

In "Chiefs and Leading Families of Rajputana" we read that it was Rao Ratan Singh of Garhi who was most instrumental in getting Lachman Singh of the Surpur family adopted into the ruling house instead of the Khandu claimant. The same Rao Ratan Singh was from 1844-52, the first Manager of the Banswara State during Maharawal Lachman Singh's minority

and subsequently from 1874-76, was it is said, Kamdar of the State, while his father Arjun Singh, held the office of "Bhanjgaria" (State Councillor) during the Chiefship of Maharawal Bahadur Singh.

The influence thus possessed would easily account for the exercise of the practice of collecting customs duties in Shergarh by the Raos of Garhi even though they might have no right to do so,

16. I therefore find.

- (a). That though the Shergarh Ilaka is an integral portion of the Banswara State and a portion of the Jagir granted by the Banswara Durbar to the appellant's ancestors, that district was bestowed in Jagir under very special terms and for special services rendered by Thakur Agar Singh to the Banswara State consequently the Jagirdar of Garhi is entitled to special consideration in respect of the Shergarh portion of the Garhi Thikana.
- (b). That, whether due to the power and influence enjoyed by former Jagirdars of Garhi or to other reasons, the Jagirdar of Garhi has in the past collected dues of the nature of customs duty in the Shergarh Ilaka.
- (c). That in 1871-73 the right of the Jagirdar of Garhi to collect customs duty in his estate was disputed by the Banswara Darbar and that in subsequent years the Banswara State did collect customs duties in the Shergarh district, consequently the claim made in the appeal, that the right to collect customs duty in the Shergarh Ilaka has been obtained by the appellant, by the prescription and the uninterrupted and undisturbed enjoyment of the practice for over a century, cannot be admitted, and
- (d). That the assertion that, during the minority of Rao Sangram Singh the Banswara Darbar administered the Garhi estate and did not then take customs duties in the Shergarh villages has not been denied or refuted on behalf of the Banswara Durbar and hereby decide, in view of the above findings, that
 - (1) The Banswara Durbar are entitled to place a customs post at Salupat and Vareth, since the Shergarh Ilaka is an integral part of the Banswara State.
 - (2). Though the collection of customs in all parts of the Banswara State is a right of the Government and therefore belonged to the Banswara Darbar; and though no right to levy customs duties in the Shergarh district has been bestowed by specific grant on the Jagirdar of Garhi, the Jagirdar of Garhi has, in the past, been permitted by the Durbar to make certain collection of the nature of customs duties in that district, in view of which fact and of the special services of the appellant's ancestor which led to that district being bestowed on him in Jagir, free of tribute, the Rao of Garhi is entitled to a share of

the customs revenue obtained from the Shergarh district by the Banswara State and that such share should be fixed in a liberal manner.

- (3) That the net customs revenue alluded to in (2) be shared equally by the Banswara State and the Rao of Garhi, so long as the latter remains in possession of the Jagir now enjoyed by him. The cost of the collection and supervision of the collections of those customs duties being deducted from the gross customs revenue before division of the net customs revenue, and
- (4) That this decision to have effect from the date on which the customs post was, in accordance with the orders passed in 1904 by the Assistant Resident in Mewar, established at Salupat by the Banswara State: but that should any collections of the nature of customs duties have been made in the Shergarh district by the Rao of Garhi, subsequent to the date aforesaid, the same be taken into consideration in fixing the sum due to the appellant in respect of customs collections made by the Banswara Darbar in the Shergarh district since 1904,

DATED UDAIPUR,

(Sd.) J. L. KAYE,
LT. COLONEL,
Resident in Mewar.

the 23rd September 1912.

True copy,
(Sd.) GOVIND PRASAD,
Head Clerk,
Political Agency S. R. States.
